

**FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME)  
Report**

**State of Washington  
Department of Labor and Industries  
Division of Occupational Safety and Health (DOSH)**

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## I. Executive Summary

The state of Washington, under an agreement with OSHA, operates an occupational safety and health program through its Department of Labor and Industries, Division of Occupational Safety and Health (DOSH). DOSH was established in accordance with Section 18 of the *Occupational Safety and Health Act of 1970*. The state's enabling legislation, the *Washington Industrial Safety and Health Act*, took effect in 1973, and the Secretary of Labor certified in 1982 that the state had completed all of the required developmental steps in the plan.

The director of the Washington Department of Labor and Industries is appointed by the Governor, and serves as the state plan designee. An assistant director is appointed by the director and is in charge of DOSH; the assistant director directs central office and regional operations. The current director is Joel Sacks; the assistant director is Anne Soiza.

DOSH establishes policy, provides technical guidance, writes standards, develops internal and external training, monitors and evaluates programs, conducts inspections, and provides consultation services. The state inspects and provides consultative assistance to state and local government agencies and private sector employers not covered by OSHA. All on-site consultation (both public and private) in the state of Washington is provided through 23(g) or 100% state funding. There is no 21(d) consultation component.

DOSH exercises jurisdiction over state and local government workplaces and private sector employers not covered by OSHA in the state of Washington. OSHA's inspection authority is limited to private employers at national parks and military installations; maritime activities on the navigable waters; and federal government employers. OSHA also covers establishments on Indian lands that are tribally-owned, as well as employers who are enrolled tribal members working on reservations or on trust lands.

Over the years, the state of Washington has adopted a number of safety and health standards which differ from their federal counterparts. Examples include Washington's rules for fall protection, respiratory protection, aerial lifts, and agriculture. DOSH has also adopted a number of state-initiated rules for which there are no federal counterparts, including requirements for written safety and health programs, and for safety committees.

During FY 2012, the state plan was staffed with 367 positions, which included 115 compliance officers and 45 consultants. The program covers approximately 2.08 million workers employed in over 157,040 establishments statewide. Washington's federally-approved state OSHA program was funded at about \$37.3 million, \$7.8 million of which were federal funds. There were 184 DOSH positions funded entirely by the state.

The purpose of this Federal Annual Monitoring and Evaluation (FAME) report is to assess DOSH's performance during FY 2012 with regard to activities mandated by OSHA, and to gauge the state's progress toward resolving recommendations from the FY 2011 FAME. As part of this abridged evaluation, OSHA conducted a review of a portion of DOSH's discrimination program case files. This report also assesses the state's achievement of its annual performance plan goals as well as its progress toward the goals in its five-year strategic plan.

DOSH's performance with respect to activities that are mandated by the Occupational Safety and Health Act and its implementing policies and regulations continued to be acceptable.

The FY 2011 FAME report on DOSH contained a total of three recommendations, for which the state completed corrective actions in FY 2012.

This FAME report contains a total of three recommendations which relate to Washington's discrimination program. They are as follows:

**Recommendation 12-1:** Ensure implementation of a process for supervisory review and acceptance of case files and settlement agreements.

**Recommendation 12-2:** Ensure timely notification of respondents, including the substance of the complaint, when a case has been docketed.

**Recommendation 12-3:** Ensure consistent entry of complaint filing and closing dates into the Integrated Management Information System (IMIS).

## II. Major New Issues

The Washington State Department of Labor & Industries (L&I), Division of Occupational Safety & Health (DOSH) adopted a Hazardous Drugs rule designed to protect health care workers from exposure to chemotherapy drugs and other hazardous drugs. Washington is the first state in the nation to do so. The new rule will be enacted in phases beginning January 1, 2013.

Effective July 1, 2012, Washington now requires businesses to correct serious safety violations and the hazards they represent during the appeal of any safety and health citation, unless a stay of abatement is requested and granted.

DOSH recently formed a Tunneling and Hyperbaric Safety Work Group as a technical advisory group to DOSH. This group of stakeholders has the mission to collaborate with DOSH and modernize the health and safety rules specific to hyperbaric exposures in compressed air work environments.

For more information on new major issues concerning DOSH, please see Appendix E.

### III. State Progress in Addressing FY 2011 FAME Report Recommendations

This section provides a summary of the status of the findings and recommendations from the FY 2011 FAME report. During FY 2012, the state took corrective action for each recommendation and each was verified by OSHA. All recommendations are considered complete. Appendix C describes the status of each FY 2011 recommendation in detail.

**Finding 11-1 (Continued 10-1):** Phone/fax complaints are not consistently initiated within five working days. The average time was 8.65 days, a slight increase from 8.54 days in FY 2010.

**Recommendation 11-1 (Continued 10-1):** Ensure that phone/fax complaints are initiated within five working days as required in the DOSH Compliance Manual. The reason and circumstances for any case requiring more than five working days to contact the employer must be documented in the case file.

**Status:** Washington addressed this recommendation by providing additional training to the enforcement staff in September 2012 to ensure accurate recording of dates into the WIN system. The state also has chosen to review the phone/fax data prior to each quarterly meeting with OSHA and reviewing any cases falling outside of the 5-day response period to ensure appropriate response actions were taken. Although DOSH took appropriate corrective action in response to the recommendation, data through the end of FY 2012 continued to show phone/fax complaint response time greater than 5 days. A review of the SAMM report data covering the first quarter of FY 2013, however, verified the effectiveness of the corrective action. **OSHA considers this item complete.**

**Finding 11-2:** Where a referral inspection case file was identified as “other,” the source of the referral was not documented in 17 of the 43 case files reviewed (40%).

**Recommendation 11-2:** Ensure adequate information is provided in referral case files to document the origination and determination that a referral exists.

**Status:** Washington addressed this recommendation by providing additional communication and training to the enforcement staff in August 2012 about the clarity and specificity needed in the source name field and that an entry indicating “other” would not be considered acceptable per the WIN system requirements. OSHA has verified this item as completed during quarterly meeting discussions with the state in early FY 2013. **OSHA considers this item complete.**

**Finding 11-3:** DOSH did not meet its inspection goals. DOSH conducted 5,402 inspections during FY 2011, which was 1,598 or 23% short of its inspection goal of 7,000. The state’s ability to meet its goal was negatively affected by employee turnover and budget issues.

**Recommendation 11-3:** Ensure appropriate inspection goals are set based on realistic expectations, taking into consideration resources, and the training status of compliance staff.

Status: Washington addressed this recommendation by adjusting its FY 2013 inspection goal, taking into consideration the challenges and impacts of their unusually high staff turnover during the period when the economy is beginning to recover. This change was verified by the region with the state's submission of the FY 2013 Performance Plan in August 2012. **OSHA considers this item complete.**

## IV. Assessment of FY 2012 State Performance of Mandated Activities

In addition to reviewing the State Activity Mandated Measures (SAMM) and DOSH's implementation of its Annual Performance Plan and five-year Strategic Plan, OSHA conducted an on-site review of the state's discrimination program. The following is an assessment of Washington's performance in mandated program areas. Monitoring data came from grant assurances, statistical reports, case file reviews and interviews.

### A. Enforcement

#### 1. Complaints

FY 2012, data showed that 4% of the state's inspections were in response to complaints, with the relatively low rate attributable to how DOSH classified complaints and referrals during the period covered by this review.

During FY 2012, the state responded to a total of 259 complaints; 214 were on-site inspections. The average time to respond with an on-site inspection in FY 2012 was 11.50 days and is within the state's requirement of 15 days. The state responded to 45 complaints or referrals by the phone/fax procedure with an average response time of 7.17 days, which is 2.17 days above the required 5 days.

<b>Timeliness of Complaints and Referrals</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Average Days to initiate Inspection</b>	11.50	8.65	8.54	8.92	10.73
<b>Average Days to initiate investigation</b>	7.17	8	7.72	4.07	7.05

The state's timeliness for initiating a phone/fax complaint resulted in a finding in FY 2011. Although Washington appropriately addressed OSHA's recommendation for this item, data through the end of the fiscal year showed the average phone/fax complaint response time to be greater than 5 days. During the first quarter of FY 2013, the SAMM indicated the average response time for phone/fax investigations had significantly decreased to 1 to 2 days. OSHA will continue to monitor DOSH's performance in this area.

DOSH received 13 imminent danger complaints/referrals in FY 2012 and all responses were timely. SAMM data shows 14 imminent danger complaints/referrals, but the state confirmed that one was a coding error and has since corrected it. For the last five years DOSH has consistently met this goal with 100% performance.



## **2. Fatalities and Catastrophes**

There were 56 fatalities reported in FY 2012 (IMIS Micro-to-Host Report). Of these, 38 fatalities were inspected; 18 of the 56 were found to be not work-related (natural causes) or were cases where DOSH deferred to a law enforcement investigation (such as traffic collisions). DOSH responded within one day of notification to 31 of the fatality cases achieving an 82% response time for inspecting fatalities within one working day of notification. The seven fatalities that were not inspected within one day were for reasonable and/or unforeseeable delays. DOSH's performance is acceptable.

It is standard procedure for DOSH compliance officers to make contact with the families of victims at the onset of an inspection and at the close of an investigation to inform families of any findings.

## **3. Targeting and Programmed Inspections**

In FY 2012, DOSH conducted 1,056 programmed safety inspections and 199 programmed health inspections for a total of 1,255. The state cited serious, willful, or repeated violations in 41.66% of the programmed safety inspections and 45.85% of the programmed health inspections. These percentages are lower than the 3-year national rate for state plans of 58.5% safety and 53.0% health. OSHA will continue to hold discussions with the state on violation classification.

During FY 2012, DOSH requested an adjustment of its inspection goal from 7,000 to 5,600 inspections, in consideration of the ongoing staffing and training challenges which the state faced. OSHA reviewed and approved Washington's request. DOSH conducted a total of 5,161 inspections in FY 2012, which was still 7.9% below the reestablished goal (Appendix E). The following table reflects DOSH performance in this area over the last five years; monitoring by OSHA will continue.

<b>Inspections</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Goal</b>	<b>5,600</b>	<b>7,000</b>	<b>7,000</b>	<b>6,600</b>	<b>7,230</b>
<b>Conducted</b>	<b>5,161</b>	<b>5,402</b>	<b>7,145</b>	<b>7,654</b>	<b>5,674</b>
<b>Difference</b>	<b>(439)</b>	<b>(1,598)</b>	<b>145</b>	<b>1,054</b>	<b>(1,556)</b>

Washington has an effective mechanism to obtain warrants when compliance officers are denied entry. The SAMM data showed two instances where the state did not seek a warrant when denial of entry occurred. In both of these instances the state had reasonable justification for not obtaining the warrants. DOSH met this element.

## **4. Citations and Penalties**

The state has successfully managed to issue citations in a timely manner. This significant achievement of DOSH to reduce and maintain both industrial hygiene and safety lapse times is commendable.

The following tables represent DOSH's five-year performance history for both industrial hygiene and safety citation lapse times. The data was compiled using the end-of-year final SAMM report. See Appendix D for details.

<b>IH Lapse Times (Days)</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>National Average</b>	64.8	61.8	58.7	59.9	60.2
<b>Actual</b>	57.1	56.6	55.5	55.3	70.6
<b>Difference</b>	-7.7	-5.2	-3.2	-4.6	+10.4

<b>Safety Lapse Times(Days)</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>National Average</b>	51.9	47.3	45.5	45.6	47.3
<b>Actual</b>	45.6	38.2	32.2	30.5	42.3
<b>Difference</b>	-6.3	-9.1	-13.3	-15.1	-5.0

DOSH's average penalty assessed per serious violation in the private sector in FY 2012 was \$863, which is below the federal average of \$1,990 by \$1,127, or 56% lower (SAMM 10). Washington's penalty structure is written in rule and can only be changed by following the state's Administrative Procedures Act.

However, it is noteworthy that DOSH has increased its average penalty assessed per serious violation by \$76 in the past year, a 9.66% increase from FY 2011 and an overall 28% increase in penalties over the past five years. Especially noteworthy is DOSH's increase in penalties over the last three years. DOSH attributes the increase to additional monitoring and training on the proper classification of violations and assessment of penalty factors. The following table represents DOSH's five-year average serious penalty issuance history (SAMM 10):

<b>Average penalty assessed per serious violation</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
	\$863	\$787	\$642	\$530	\$673

## **5. Abatement**

Washington requires that each hazard be abated, and that adequate verification of the correction is included in the case file. Effective July 1, 2012, DOSH requires employers to correct serious safety violations and the hazards they represent during the appeal period, unless a stay of abatement is requested and granted. For FY 2012, the timely abatement verification of serious, willful and repeat violations was 97.5% (Appendix E), which exceeded DOSH's goal of 95%. DOSH's performance in this element is acceptable.

<b>Percent of S/W/R Violations verified</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Private Sector</b>	95.66%	96.19%	95.10%	95.90%	93.71%
<b>Public Sector</b>	97.47%	90.79%	98.94%	95.87%	98.28%

## **6. Employee and Union Involvement**

During DOSH inspections, employees are given the opportunity to participate either through interviews or by having employee representatives accompany inspectors. Employees are also afforded the opportunity to privately express their views about the workplace away from the employer. In addition, inspection results are provided to union or other labor representatives and complainants. The state's policy is identical to the federal policy for the allowance of employee participation in inspection activities.

### **B. Review Procedures**

#### **1. Informal Conferences**

DOSH's procedures for informal and formal review of appealed Citation and Notices (C&N) are known as the Reassumptions Program. The outcomes of the Reassumptions Program are similar to OSHA's informal conference process, although the time frames are different. Once a citation is delivered to an employer, the employer has 15 working days to file an appeal with the state. If the department decides to reassume jurisdiction, the state has 30 working days (45 working days with agreement of both parties) to issue the Corrective Notice of Redetermination. If the department decides to reassume, the state holds an informal conference with the employer, and modifications to the Citation and Notice are made in the Corrective Notice of Redetermination issued to the employer.

If the state determines that they will not reassume a Citation and Notice, the appeal is sent directly to the Board of Industrial Insurance Appeals (BIIA). The BIIA is a separate state agency that hears the contested cases of the department. The department is represented by the Attorney General's Office. If a settlement agreement is not reached during mediation, the case will be assigned to an Industrial Appeals Judge (IAJ) who will hear the case and issue a decision on contested issues.

During reassumption, the state's data reflect that 88.5% (2901/3276) of violations were affirmed, 4.2% (137/3276) were modified and 7.3% (238/3276) were vacated during the period of FY 2012. The state's penalty retention during reassumption is 91%, which exceeds OSHA's penalty retention of 59.1%. OSHA finds this performance acceptable.

## **2. Formal Review of Citations**

Washington's Administrative Rules and DOSH's Administrative Manual contain procedures that afford employers the right to administrative and judicial review of alleged violations, initial penalties and abatement periods. Those procedures also provide employees and their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

A lower percentage of DOSH's violations, 8.9%, were vacated in FY 2012 in comparison to the federal percentage of 22.5%. DOSH's post-contest penalty retention for FY 2012 was 60%, compared to 50.23% retention federally. In the area of post-contest violation reclassification, the BIIA affirmed 82%, modified 9.1% and vacated 8.9% of DOSH's second appealed violations. OSHA finds these actions acceptable.

## **C. Standards and Federal Program Changes (FPCs) Adoption**

### **1. Standards Adoption**

DOSH has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. During this evaluation period, OSHA issued one final rule that was required to be adopted by the states. The Hazard Communication – Globally Harmonized System rule is scheduled to be adopted in May of 2013. This rule is scheduled to take 14 months to promulgate, eight months more than the required maximum of 6 months after federal promulgation. This additional time to adopt rules is necessary to fulfill Washington's promulgation process involving adequate notice, public hearings, and stakeholder meetings.

### **2. Federal Program/State Initiated Changes**

A total of 7 federal program changes (FPCs) were issued by OSHA which required a response in FY 2012. There were two remaining FPCs that will carry over into FY 2013. Washington's response to those will be evaluated during the next FAME cycle. In all cases, DOSH provided their intent of adoption or to otherwise administer a program change that was at least as effective as the federal program change in a timely manner.

DOSH submitted 13 state-initiated changes this period. All state-initiated changes were submitted timely.

## **D. Variances**

DOSH granted twelve permanent variances during this evaluation period, twelve less than the number of variances granted during the previous period. One interim variance was granted during this period which is one less than the number granted during the last period. Other

variance actions included eleven variances being revoked or denied. DOSH did not grant any temporary variances during the previous period. The variance applications were handled properly and the decision to grant the variance was justified.

### **E. Public Employee Program**

In FY 2012, DOSH conducted 3.58% (185/5161) of its inspections in the public sector (SAMM 11). Of the total 185 public inspections, 86 were program planned inspections – 83 safety and 3 health. The percent of inspections in the public sector (3.58% per SAMM 11) is consistent with data for the state average over the last 3 years and is slightly lower than the 4.3% in FY 2011.

Penalties and sanctions are imposed on employers in the public sector for violations of safety and health hazards in an identical fashion as for private industry.

### **F. Discrimination Program**

Section 49.17.160 of the Washington Industrial Safety and Health Act provides for discrimination protection equivalent to that provided by federal OSHA. OSHA conducted an on-site monitoring review of DOSH's discrimination program in FY 2012. This review found some case files with conflicting or contrary closure dates. Following the visit, OSHA provided the state a spreadsheet of the case files reviewed and the findings.

The following table is a summary of discrimination activity during FY 2012:

<b>Disposition</b>	<b>Totals</b>
<b>Total cases from FY 2012</b>	114
<b>Cases completed FY 2012</b>	97
<b>Cases completed timely</b>	102
<b>Overage cases</b>	12
<b>~ Withdrawn</b>	7
<b>~ Dismissed</b>	58
<b>~ Merit</b>	32
<b>~ Settled</b>	22
<b>~ Settled Other</b>	7
<b>~ Reinstatement (if any)</b>	2
<b>~ Litigated</b>	1
<b>Investigators on staff</b>	5

During FY 2012, DOSH received 6 more complaints than in FY 2011 and completed 10 more investigations. DOSH's timeliness of completed cases FY 2012 is 91% during this period which is considerably higher than the national average for timeliness. DOSH's merit rate dropped from 42% in FY 2011 to 34% in FY 2012. DOSH's merit rate is considerably higher than the national meritorious rate of 23%. DOSH's performance continues to be acceptable.

The FY 2011 FAME referred to recommendations made in FY 2010 since no on-site monitoring visit was conducted in FY 2011. The FY 2010 FAME noted that DOSH would ensure whistleblower settlement agreements were completed in accordance with current policy and accurately recorded in the IMIS database. DOSH acknowledged that its investigators received training at the Joint Federal-State Whistleblower Conference in September 2011 and held “an in-depth discussion of settlement policies, practices and requirements” at its December 2011 quarterly meeting.

As a result of the FY 2012 case file review, OSHA made three recommendations for program improvement. They are as follows:

**Finding 12-1:** Whistleblower settlement agreements did not always comply with current policy and in some cases were not maintained in the case file.

**Recommendation:** Ensure implementation of a process for supervisory review and acceptance of case files and settlement agreements.

**Finding 12-2:** Respondents were not always timely notified of a whistleblower complaint and/or not provided a copy of the whistleblower complaint.

**Recommendation:** Ensure timely notification of respondents, including the substance of the complaint, when a case has been docketed.

**Finding 12-3:** 14 of 23 case files, or 61% of the files reviewed, indicated that closure dates were not consistent and contradicted documentation in the case files. Several files reviewed had complaint filing dates which did not match with IMIS data.

**Recommendation:** Ensure consistent entry of complaint filing and closing dates into the Integrated Management Information System (IMIS).

These findings and recommendations are included in Appendix A for this period. OSHA will further address these items with DOSH through additional monitoring of the discrimination program in FY 2013.

## **G. Voluntary Compliance Program**

At the end of FY 2012, there were 30 approved VPP sites in DOSH jurisdiction. Six withdrawals occurred during this period. DOSH added a provision in their VPP manual requiring quality assurance audits be conducted on approximately 20% of VPP participants annually. The quality assurance (QA) audits are scheduled based on a review of the participants' annual self-audits and are in addition to the scheduled 3 to 5 year renewal audits. The QA audits are limited in scope and focus on injury and illness records, changes reported by a VPP participant, or general site safety and health management practices. In calendar year 2012, they completed 11 (36%) of these audits. DOSH met this element.

## H. Program Administration

The state of Washington continues to maintain a well-developed training program that is as effective as federal OSHA. Both compliance and consultation staff are given training opportunities to increase their knowledge and keep them current in standards, guidelines and policies. DOSH dedicates resources to training both new employees and experienced staff members.

At the end of the year, the state's on-board staffing was at 89% of the authorized enforcement positions and at 96% of consultation positions. The details are as follows:

- Authorized safety compliance program positions are above the prescribed enforcement staffing benchmark. Washington's safety enforcement benchmark is 55 with 79 positions authorized and 72 of those filled.
- For health enforcement, the benchmark is 74 with 36 authorized and 30 filled.
- The state's consultation program has 45 consultant positions (28 safety and 17 health). As of September 30, 2012, 43 consultant positions were filled (26 safety and 17 health).

## V. State Progress in Achieving Annual Performance Goals

DOSH has established three broad goals in its five-year Strategic Plan which covers the years 2011-2015 as follows:

**Strategic Goal 1 – Identify and act on the highest safety risks.**

**Strategic Goal 2 – Prevent and reduce workplace injuries, illness and disability.**

**Strategic Goal 3 - Increase effective safety communications to the public.**

The DOSH Annual Performance Plan is divided into three goal categories – (A) strategic, (B) direct service and (C) operational. In support of the 5-year Strategic Plan, DOSH developed five goals in its Annual Performance Plan for FY 2012, along with seven direct services goals, and four operational goals. DOSH developed and submitted its FY 2012 annual performance plan as part of its application for federal funds. As the state ended the year, all of its annual goals were met with the exceptions of the following:

- **FY 2012 Goal A-1**
  - Increase the percentage of targeted DOSH inspections where serious hazards are found from the baseline of 30% to at least 50% by September 2012. This goal was not met as DOSH achieved 35%, or 15% below the goal. Although DOSH did not meet its goal, DOSH has expended significant resources to better understand and further refine the criteria for identifying workplaces for inspection. DOSH did however increase by 5% the percentage of inspections where at least one serious violation was found during this year. DOSH plans to refine its strategies by identifying positive results from different regions within the state and implementing these practices statewide. OSHA will continue to monitor this goal in FY 2013.
- **FY 2012 Goals A-2**
  - Establish regional models of comprehensive service delivery, and compare employers' post-service experience and costs to their pre-service experience and costs. Begin by September 2012 and compare in six-month intervals. This goal could not be assessed at this time because data is not available yet.
- **FY 2012 Goal A-5**
  - Complete a comprehensive usability study and implement recommended modifications and improvements of the content for the DOSH safety and health website by September 2012. This goal was not fully met. The state continues to work on the usability testing and website modifications, along with the development of webpages and content. Higher priority agency projects within the Department of Labor and Industries have delayed the implementation of the final modifications to the website until fall 2013. OSHA will continue to monitor progress on this goal in 2013.



- **FY 2012 Goal B-1**
  - Reduce deaths from work-related injuries in support of the 2015 goal of no more than 2.0 deaths per 100,000 full-time workers. Preliminary data show that the state has made progress towards reaching this goal but final data is not available.
- **FY 2012 Goal B-2**
  - Reduce workplace injuries and illnesses by at least 10% as measured by the average time loss claims for employer with WISHA enforcement or consultation visits. The Department of Labor and Industries' Safety and Health Assessment & Research for Prevention (SHARP) program, with input and feedback from safety and health researchers throughout the nation, is evaluating a change of study procedures and developing new protocols. A report is anticipated by December 2013. This goal could not be assessed.
- **FY 2012 Goal B-4**
  - Conduct at least 5,600 compliance inspections. DOSH missed this goal by 8%. The state was closer to meeting its goal in FY 2012 than during FY 2011 where DOSH was 23% below the goal. The state has established reasonable inspection goals for FY 2013. OSHA will continue to monitor DOSH performance in this area.
- **FY 2012 Goal C-1**
  - Ensure that phone/fax complaints are sent to employers within five working days as required in the DOSH Compliance Manual. Year-end data show this goal was not met. However, first quarter FY 2013 data show the state has successfully achieved this goal.

The state continues to make overall improvements in achieving its annual performance goals. OSHA will continue to monitor in the areas listed above where the state did not meet its goals or where the goals were unable to be assessed.

Washington's more detailed report on its accomplishments with respect to its FY 2012 Annual Performance Plan goals is attached as Appendix E, the State OSHA Annual Report (SOAR).

## VI. Other Areas of Note

### A. Complaints About State Plan Administration (CASPs)

Four new CASPs were filed in FY 2012; three of these were investigated and closed and one remained open at the end of the year. One CASPA carried over from the previous fiscal year and was completed and closed in early FY 2012. All CASPs which were completed during the period covered by this FAME were found to be invalid. The findings and recommendations for one of the CASPs filed in FY 2012 were still under review at the national office at the time this report was being prepared.

### B. Public and Private Sector 23(g) On-Site Consultation Program

The state of Washington covers both public and private sector for on-site consultation through its grant under the 23(g) funding program, and through additional 100% state funding.

DOSH conducted a total of 2,350 consultation visits in FY 2012 (public and private), which was slightly above DOSH's goal of 2,300 visits. Based on this information, DOSH met its goal of 2,300 consultation visits in FY 2012. See table below.

<b>DOSH Consultation Activities</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Total Goal</b>	2300	2300	2260	2600	2700
<b>Conducted</b>	2350	2428	2747	2708	2371
<b>Difference</b>	50	128	487	108	-329

In FY 2012, 90% (1,773 of 1,966) of Washington's private sector initial consultation visits occurred at high-hazard establishments. This is equivalent to the MARC reference standard of 90%. During the same period, 87% (153 of 175) of DOSH's public sector initial consultation visits occurred at high-hazard establishments. All of Washington's initial consultation visits were to smaller businesses, which OSHA defines as having 250 or fewer employees at a site or 500 or fewer employees corporate wide.

For the same period, 97.7% (5,435 of 5,566) of the serious hazards identified by consultants in the private sector and 100% (429 of 429) in the public sector were verified as corrected in a timely manner. For the purposes of this measure, verification is considered timely when it occurs within 14 days or fewer from the latest correction due date for each visit. The MARC reference standard is 100%. DOSH's FY 2012 annual performance plan goal was 95% or better, and DOSH's performance met the state's goal.

### ***APPENDIX A – New and Continued Findings and Recommendations***

FY 2012 Washington State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11
12-1	Whistleblower settlement agreements did not always comply with current policy and/or were not maintained in the case file.	Ensure implementation of a process for supervisory review and acceptance of case files and settlement agreements.	
12-2	Respondents were not always timely notified of a whistleblower complaint and/or not provided a copy of the whistleblower complaint.	Ensure timely notification of respondents, including the substance of the complaint, when a case has been docketed.	
12-3	14 of 23 case files, or 61% of the case files reviewed, indicated that closure dates were not consistent and contradicted documentation in the case files. Several files reviewed had complaint filing dates which did not match with IMIS data.	Ensure consistent entry of complaint filing and closing dates into the Integrated Management Information System (IMIS).	

***APPENDIX B – Observations Subject to Continued Monitoring***

FY 2012 Washington State Plan Abridged FAME Report

Washington does not have any new or continued observations.

## **APPENDIX C – Status of FY 2011 Findings and Recommendations**

### FY 2012 Washington State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-1	Phone/fax complaints are not consistently initiated within five working days. The average time was 8.65 days, a slight increase from 8.54 days in FY 2010.	Ensure that phone/fax complaints are initiated within five working days as required in the DOSH Compliance Manual.	The DOSH Compliance Manual reads – All phone/fax complaints must be sent to the employer as soon as possible, and no more than five (5) working days after receipt. The reason and circumstances for any case requiring more than five working days to contact the employer must be documented in the case file. Phone/fax data will be reviewed prior to each quarterly OSHA/DOSH meeting. All cases falling outside of the 5-day response period will be reviewed to ensure appropriate response actions were taken.	The state completed the corrective actions to include conducting training for enforcement staff in September 2012 to ensure accurate recording of dates were being entered into the WIN system. State provided data in first quarter FY 2013 which showed improvement of response time to 1-2 days. Region verified completed during quarterly meeting in early FY 2013.	Completed.
11-2	Where a referral inspection case file was identified as “other,” the source of the referral was not documented in 17 of the 43 case files reviewed (40%).	Ensure adequate information is provided in referral case files to document the origination and determination that a referral exists.	The WIN system requires the CSHO identify the source for the “other” designation for a referral inspection. Additional communication and training is being provided to staff about the clarity and specificity needed in the source name field and that indicating “other” is not acceptable.	The state addressed the recommendation by providing additional training to the enforcement staff in August 2012 in accordance with the corrective action plan. Region verified completed during quarterly meeting in early FY 2013.	Completed.
11-3	DOSH did not meet its inspection goals. DOSH conducted 5,402 inspections during FY 2011, which was 1,598 or 23% short of its inspection goal of 7,000. The state’s ability to meet its goal was negatively affected by employee turnover and budget issues.	Ensure appropriate inspection goals are set based on realistic expectations, taking into consideration resources, and the training status of compliance staff.	DOSH has adjusted the FY 2013 inspection goal, taking into consideration the lasting impacts of unusually high staff turnover as a result of the economy beginning to recover. DOSH will continue to monitor report status at quarterly monitoring meetings with OSHA Region 10 staff.	The state addressed this recommendation by adjusting its FY 2013 inspection goal. Region verified completed with the state’s submission of the FY 2013 Performance Plan in August 2012.	Completed.

## APPENDIX D – FY 2012 State Activity Mandated Measures (SAMM) Report

### FY 2012 Washington State Plan Abridged FAME Report

Washington: RID: 1055300

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	2462 11.50 214	133 8.31 16	Negotiated fixed number for each state
2. Average number of days to initiate Complaint Investigations	323 7.17 45	4 1.00 4	Negotiated fixed number for each state
3. Percent of Complaints where Complainants were notified on time	185 95.36 194	9 100.00 9	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	13 92.86 14	2 100.00 2	100%
5. Number of Denials where entry not obtained	2	0	0
6. Percent of S/W/R Violations verified			
Private	2909 95.66 3041	83 89.25 93	100%
Public	70 97.22 72	4 100.00 4	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	122550 45.60 2687	14915 49.55 301	2032800 55.9 36336
Health	49132 57.13 860	4656 58.93 79	647235 67.9 9527
			National Data (1 year)
			National Data (1 year)

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	1056	122	76860
Safety	41.66	56.22	58.5
	2535	217	131301
	199	13	9901
Health	45.85	44.83	53.0
	434	29	18679
9. Average Violations per Inspection with Violations			
	5536	604	367338
S/W/R	1.55	1.58	2.1
	3550	380	175950
	8494	823	216389
Other	2.39	2.16	1.2
	3550	380	175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	4326280	485890	624678547
	862.84	881.83	1990.5
	5014	551	313826
11. Percent of Total Inspections in Public Sector	185	18	676
	3.58	4.96	3.8
	5161	363	17787
12. Average lapse time from receipt of Contest to first level decision	71571	1002	3197720
	109.77	91.09	187.0
	652	11	17104
13. Percent of 11c Investigations Completed within 90 days*	89	14	
	90.82	82.35	100%
	98	17	
14. Percent of 11c Complaints that are Meritorious*	33	5	1619
	33.67	29.41	23.4
	98	17	6921
15. Percent of Meritorious 11c Complaints that are Settled*	30	4	1444
	90.91	80.00	89.2
	33	5	1619

\*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/2013

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

***APPENDIX E – State OSHA Annual Report (SOAR)***  
FY 2012 Washington State Plan Abridged FAME Report

***[Available Upon Request]***